

Application Serial No. 10/635,500
Response to Office action dated December 6, 2004
Reply to Office action of September 13, 2004

REMARKS

Claims 1 through 39 are pending in this application. Reconsideration is requested based on the following remarks.

Claim Rejections - 35 U.S.C. § 102:

Claims 1 through 7, 9 through 14, 21, 22, 23, 25, and 26 were rejected under 35 U.S.C. § 102(b) as anticipated by McKee, US 6,367,256. The rejection is traversed.

Claim 1 recites:

"a bypass valve controller that controls said bypass valve to inhibit condensation buildup in an intake manifold or power cylinder by maintaining an intake manifold temperature above the dew-point temperature."

McKee neither teaches, discloses, nor suggests controlling a bypass valve to maintain an intake manifold temperature above a *dew-point* temperature, as recited in claim 1. In McKee, rather, a CAC bypass valve may consider ambient temperature, relative humidity, intake manifold temperature and pressure, air/fuel ratio, and % EGR to determine how much charge air to divert around CAC 174, as described at column 7, lines 2-5. This is to be contrasted with claim 1, in which a bypass valve is controlled to maintain an intake manifold temperature above a dew-point temperature. Claim 1 is submitted to be allowable. Withdrawal of the rejection of claim 1 is earnestly solicited.

Claims 2 through 5 depend from claim 1 and add further distinguishing elements. Claims 2 through 5 are thus also submitted to be allowable. Withdrawal of the rejection of claims 2 through 5 is also earnestly solicited.

Claim 6 recites:

"operating said bypass valve to inhibit condensation buildup in an intake manifold or power cylinder by maintaining an intake manifold temperature above the dew-point temperature."

McKee neither teaches, discloses, nor suggests operating a bypass valve to maintain an intake manifold temperature above a *dew-point* temperature, as discussed above with respect to claim 1. Claim 6 is submitted to be allowable for at least the reasons expressed above with respect to claim 1. Withdrawal of the rejection of claim 6 is earnestly solicited.

Claims 7 and 9 through 12 depend from claim 6 and add further distinguishing elements.

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Claims 7 and 9 through 12 are thus also submitted to be allowable. Withdrawal of the rejection of claims 7 and 9 through 12 is also earnestly solicited.

Claim 13 recites:

"a bypass system that mixes higher temperature bypassed air with air from the charge air cooler to create a mixed boost-air temperature that is just above the dew-point temperature so as to inhibit condensation and the formation of acids."

McKee neither teaches, discloses, nor suggests mixing higher temperature bypassed air with air from a charge air cooler to create a mixed boost-air temperature above a *dew-point* temperature, as discussed above with respect to claim 1. Claim 13 is submitted to be allowable for at least the reasons expressed above with respect to claim 1. Withdrawal of the rejection of claim 13 is earnestly solicited.

Claims 14, 21, 22, 23, 25, and 26 depend from claim 13 and add further distinguishing elements. Claims 14, 21, 22, 23, 25, and 26 are thus also submitted to be allowable. Withdrawal of the rejection of claims 14, 21, 22, 23, 25, and 26 is also earnestly solicited.

Claims 1 through 7, 9 through 14, 21, 22, 23, 25, and 26 were rejected under 35 U.S.C. § 102(e) as anticipated by Rimnac et al., US 6,681,171. Rimnac was filed December 18, 2001. Submitted herewith is a Declaration Under 37 CFR §1.131 executed by co-inventors Brian L. Tussing, David O. Britner and Stephen M. Geyer. The accompanying Declaration Under 37 CFR § 1.131 establishes conception of the invention prior to the December 18, 2001 Rimnac filing date coupled with due diligence from prior to that date to the August 7, 2003 filing date of the present application. The accompanying Declaration removes Rimnac as a reference. In view thereof, withdrawal of the rejection of claims 1 through 7, 9 through 14, 21, 22, 23, 25, and 26 based on Rimnac is respectfully requested.

Claims 1, 2, 3, 6, 9, 10, 13, 14, 21, 22, 23, 25, and 26 were rejected under 35 U.S.C. § 102(e) as anticipated by Kennedy et al., US 6,786,210. Kennedy was filed June 21, 2002. Submitted herewith is a Declaration Under 37 CFR §1.131 executed by co-inventors Brian L. Tussing, David O. Britner and Stephen M. Geyer. The accompanying Declaration Under 37 CFR § 1.131 establishes conception of the invention prior to the June 21, 2002 Kennedy filing date coupled with due diligence from prior to that date to the August 7, 2003 filing date of the present application. The accompanying Declaration removes Kennedy as a reference. In view

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thereof, withdrawal of the rejection of claims 1, 2, 3, 6, 9, 10, 13, 14, 21, 22, 23, 25, and 26 based on Kennedy is respectfully requested.

Claims 1, 4, 6, 9, 11, 13, 14, 21, 22, 23, and 26 were rejected under 35 U.S.C. § 102(b) as anticipated by Sheridan et al., US 5,617,726. The rejection is traversed.

Claim 1 recites:

"a bypass valve controller that controls said bypass valve to inhibit condensation buildup in an intake manifold or power cylinder by maintaining an intake manifold temperature above the dew-point temperature."

Sheridan neither teaches, discloses, nor suggests controlling a bypass valve to maintain an intake manifold temperature above a *dew-point* temperature, as recited in claim 1. In Sheridan, rather, EGR cooler 19 is bypassed during light load operating conditions and when engine temperature is low, as described at column 3, lines 53-55. This is to be contrasted with claim 1, in which a bypass valve is controlled to maintain an intake manifold temperature above a dew-point temperature. Claim 1 is submitted to be allowable. Withdrawal of the rejection of claim 1 is earnestly solicited.

Claims 2 through 5 depend from claim 1 and add further distinguishing elements. Claims 2 through 5 are thus also submitted to be allowable. Withdrawal of the rejection of claims 2 through 5 is also earnestly solicited.

Claim 6 recites:

"operating said bypass valve to inhibit condensation buildup in an intake manifold or power cylinder by maintaining an intake manifold temperature above the dew-point temperature."

Sheridan neither teaches, discloses, nor suggests operating a bypass valve to maintain an intake manifold temperature above a *dew-point* temperature, as discussed above with respect to claim 1. Claim 6 is submitted to be allowable for at least the reasons expressed above with respect to claim 1. Withdrawal of the rejection of claim 6 is earnestly solicited.

Claims 7 and 9 through 12 depend from claim 6 and add further distinguishing elements. Claims 7 and 9 through 12 are thus also submitted to be allowable. Withdrawal of the rejection of claims 7 and 9 through 12 is also earnestly solicited.

Claim 13 recites:

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"a bypass system that mixes higher temperature bypassed air with air from the charge air cooler to create a mixed boost-air temperature that is just above the dew-point temperature so as to inhibit condensation and the formation of acids."

Sheridan neither teaches, discloses, nor suggests mixing higher temperature bypassed air with air from a charge air cooler to create a mixed boost-air temperature above a *dew-point* temperature, as discussed above with respect to claim 1. Claim 13 is submitted to be allowable for at least the reasons expressed above with respect to claim 1. Withdrawal of the rejection of claim 13 is earnestly solicited.

Claims 14, 21, 22, 23, 25, and 26 depend from claim 13 and add further distinguishing elements. Claims 14, 21, 22, 23, 25, and 26 are thus also submitted to be allowable. Withdrawal of the rejection of claims 14, 21, 22, 23, 25, and 26 is also earnestly solicited.

Claims 1, 4, 6, 9, 11, 13, 14, 21, 22, 23, and 26 were rejected under 35 U.S.C. § 102(e) as anticipated by Leedham et al., US 2003/0150434. Leedham was filed July 30, 2001. Submitted herewith is a Declaration Under 37 CFR §1.131 executed by co-inventors Brian L. Tussing, David O. Britner and Stephen M. Geyer. The accompanying Declaration Under 37 CFR § 1.131 establishes conception of the invention prior to the July 30, 2001 Leedham filing date coupled with due diligence from prior to that date to the August 7, 2003 filing date of the present application. The accompanying Declaration removes Leedham as a reference. In view thereof, withdrawal of the rejection of claims 1, 4, 6, 9, 11, 13, 14, 21, 22, 23, and 26 based on Leedham is respectfully requested.

Claim Rejections - 35 U.S.C. § 103:

Claims 8, 15, 16, 17, 24, 27, 28, and 29 were rejected under 35 U.S.C. § 103 as being unpatentable over McKee, Rimnac, Kennedy, Sheridan, or Leedham. The rejection is traversed. Reconsideration is earnestly solicited.

Neither McKee nor Sheridan teach, disclose, or suggest controlling a bypass valve to maintain an intake manifold temperature above a *dew-point* temperature, as discussed above with respect to claims 1, 6, and 13. Furthermore, Rimnac, Kennedy, and Leedham were removed as references by the accompanying Rule 1.131 affidavit. Finally, the Office action provides no motivation or suggestion to modify any of the references as required by 35 U.S.C. § 103(a) and the M.P.E.P. §706.02(j)(D), beyond an assertion that such modifications are obvious

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design choices or art-recognized equivalents.

Claims 8, 15, 16, 17, 24, 27, 28, and 29 depend from claims 6 or 13 and add further distinguishing elements. Claims 8, 15, 16, 17, 24, 27, 28, and 29 are thus also submitted to be allowable. Withdrawal of the rejection of claims 8, 15, 16, 17, 24, 27, 28, and 29 is earnestly solicited.

Allowable Subject Matter:

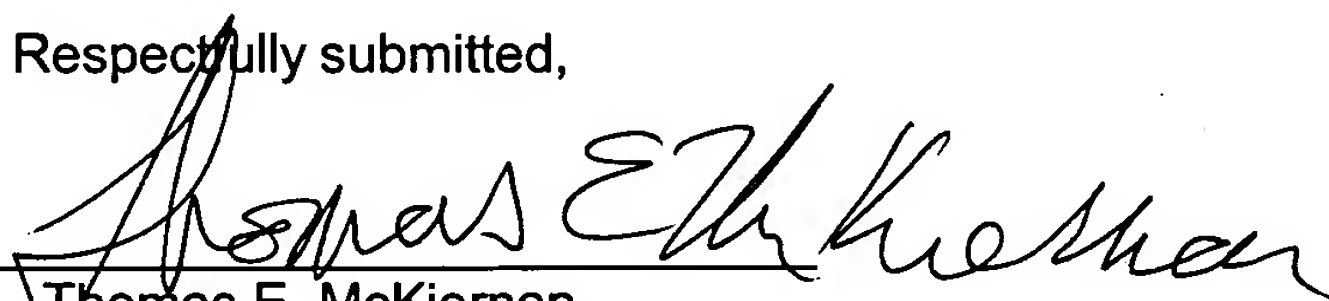
The Applicants appreciate the indication that claims 18, 19, 20, and 30 through 39 contain allowable subject matter.

Conclusion:

Accordingly, in view of the reasons given above, it is submitted that all claims 1 through 39 are allowable over the cited references. Allowance of all claims 1 through 39 and of this entire application are therefore respectfully requested.

Respectfully submitted,

By



Thomas E. McKiernan

Reg. No. 37,889

Attorney for Applicants

ROTHWELL, FIGG, ERNST & MANBECK

Suite 800, 1425 K Street, N.W.

Washington, D.C. 20005

Telephone: (202)783-6040

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